

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15825 of David Dale, pursuant to 11 DCMR 3108.1, for a special exception under Subsection 357.1 to establish a youth rehabilitation home for ten youths ages 13-19 years and 12 staff, basement through the third floor, in an DCOD/R-5-E District at premises 1728 P Street N.W. (Square 157, Lot 100).

HEARING DATE: June 9, June 16 and July 14, 1993
DECISION DATE: September 8, 1993

DISPOSITION: The Board GRANTED the application with CONDITIONS by a vote of 3-1 (Angel F. Clarens, Carrie L. Thornhill and Maybelle Taylor Bennett to grant; Paula L. Jewell opposed to the motion; Sheri M. Pruitt not voting, not having heard the case).

FINAL DATE OF ORDER: November 30, 1993

RECONSIDERATION ORDER

The Board granted the application by its order dated November 30, 1993 subject to ten conditions. By letter dated December 20, 1993, parties in opposition to the application filed a motion for reconsideration of the Board's decision in the application. The specific grounds for the motion are summarized as follows:

- a. The Board relied on oral representations by the applicant without adequate documentation or expert testimony to substantiate its representations with respect to the abscondence rate; the capitalization and identification of the entity proposed to operate the facility; and the type of offenses and ages of proposed residents.
- b. There is no corroborating documentation to attest to the fact that the security plan submitted by the applicant and approved by the Board is enforceable or effective in preventing abscondence and insuring security.
- c. There is no evidence that the proposed facility will be brought into compliance with the fire code with respect to a second means of egress and/or a sprinkler system.
- d. Operation of the proposed facility has started prior to the applicant satisfying the appropriate criteria and receiving a valid certificate of occupancy.

- e. The language of Condition No. 3 of the Board's order which provides that "a minimum of 12 staff members shall be available on a rotating 24-hour basis" is ambiguous and should provide that 12 staff members be present at the facility at all times.

There was no response to the motion for reconsideration .

Pursuant to Subsection 3332.8, those Board members who did not participate in the original decision on this application were provided with copies of the transcript and record in the subject case for review prior to consideration of the motion for reconsideration.

The Board notes that the issue raised by the opposition set forth in item d, relates to a situation or condition which occurred subsequent to the Board's consideration and is, therefore, beyond the scope of the public record on which the Board based its decision. With respect to item c, the Board notes that compliance with all applicable fire and building codes must be demonstrated prior to the issuance of the certificate of occupancy for the proposed use. Operation of the proposed facility prior to the issuance of a valid certificate of occupancy is not permitted. The Board would suggest that the opposition seek investigation and enforcement measures from appropriate District government agencies with respect to any existing or potential violations occurring at the subject premises.

Upon consideration of the motion, the record in the case, and its final order, the Board concludes that it has made no error in deciding the application. The Board concludes that the evidence provided with respect to the operation and security of the proposed facility adequately addressed the criteria set forth in Section 358 and 3108.1 of the Zoning Regulations. The Board concludes that the motion raises no materially different issues and provides no evidence of a substantive nature that the Board has not previously considered and addressed in its final order. The Board's decision and the conditions imposed were based on consideration of all the evidence presented by both the applicant and the opposition. The fact that the Board and the opposition in this case reached different conclusions does not make the judgment of the Board arbitrary, capricious or unlawful. Accordingly, the motion for RECONSIDERATION is hereby DENIED.

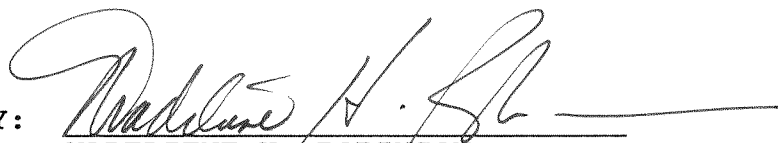
DECISION DATE: February 2, 1994

VOTE: 4-1 (Craig Ellis, George Evans and Angel F. Clarens to deny; Laura Marie Richards to deny by absentee vote; Maybelle Taylor Bennett opposed to the motion).

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BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:



MADELIENE H. ROBINSON
Director

FINAL DATE OF ORDER: _____

MAR 7 1994

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

Ord15825/SS/bhs

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15825

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on MAR 7 1994 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Charles W. Delgado
Gateway Youth Home
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Washington, D.C. 20009

David Dale
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Washington, D.C. 20009

Michael and Arline Cooper
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Joseph William Hobson
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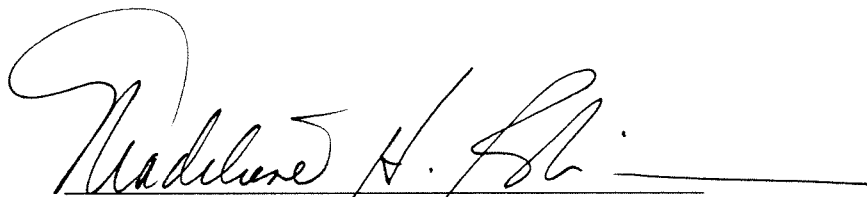
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Advisory Neighborhood Commission 2B
1347 Connecticut Avenue, N.W.
Suite 2
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MADELIENE H. ROBINSON
Director

DATE: MAR 7 1994

15825Att/bhs